



The  
THE FAMILY LAW SECTION  
respectfully submits the following position on:

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HB 5882

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 16. The number who voted opposed to this position was 0.



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

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**Bill Number:**

HB 5882 (Emmons) Crimes; other; coercive abortion prevention act; create. Amends 1931 PA 328 (MCL 750.1 - 750.568) by adding sec. 15a.

**Date position was adopted:**

May 6, 2006

**Process used to take the ideological position:**

Vote of Council members present at monthly meeting

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

16-0

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

HB 5882 sponsored by Reps. Emmons, Vander Veen, Taub, Mortimer, Amos and referred to the Judiciary Committee is part of the Coercive Abortion Prevention package. The bill seeks to protect pregnant women from being harassed or coerced into an abortion. Much of this conduct would be prohibited under current statutes: MCL 750.44h- stalking, misdemeanor; MCL 750.411i- aggravated stalking, felony; MCL 750.411s- stalking using electronic medium of communication; MCL 750.540- preventing delivery of communications ("phone tampering"); MCL 750.540e- using telecommunications w/ intent to terrorize, frighten, etc.; MCL 750.81- domestic assault; MCL 750.81a- domestic assault and infliction of serious injury; MCL 750.82 - 750.91 generally and in particular MCL 750.90a-f -- negligent conduct against a pregnant woman.

The problematic portion of this bill is the definition of harassment:

"(6) As used in this section, "harassment" means conduct directed toward a pregnant female that would cause a

reasonable individual to suffer emotional distress and that actually causes emotional distress, including, but not limited to, any of the following:

- (a) Repeatedly filing, attempting to file, or threatening to file for divorce from a pregnant female.
- (b) Repeatedly withdrawing, attempting to withdraw, or threatening to withdraw financial support from a pregnant female that had previously been supplied or offered.
- (c) Repeatedly changing, attempting to change, or threatening to change an existing housing or cohabitation arrangement with a pregnant female."

The Family Law Council thought that this language went beyond protecting pregnant women from harassment, and created a set of entitlements that would be burdensome to others. It would also create unwise incentives for becoming pregnant, regardless of circumstances. If a wife feared that her husband was about to leave her, she would only have to get pregnant (and not necessarily by the husband) to be able to threaten her husband with criminal penalties (and civil liability under HB 5881) if he filed for divorce. If the parents of an incorrigible 18 year old tell her get a job and an apartment, she only has to show up pregnant to invoke (6)(b). If five students share a house, and one becomes pregnant, none of the other four students dare move until the baby is born or they risk liability under (6)(c). If a single student in a college dorm becomes pregnant in the spring, the dorm would have to remain in operation all summer, and none of the other students could go home until the child was born.

One of the companion bills, HB 5881, makes a violation of HB 5882 a civil action as well. Even if a prosecutor decides not to bring charges in a case, the pregnant woman could bring a civil suit in any of these situations.

The Family Law Council did not think it was wise to create incentives for out-of-wedlock pregnancy, or impose a private welfare system on Michigan citizens. The Council voted unanimously to oppose this bill as long as section (6) or substantially similar language is within the bill.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

[http://www.legislature.mi.gov/\(woaist45mceuuiecktiidx45\)/mileg.aspx?page=getObject&objectName=2006-HB-5882](http://www.legislature.mi.gov/(woaist45mceuuiecktiidx45)/mileg.aspx?page=getObject&objectName=2006-HB-5882)